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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91219077
Party	Plaintiff Tristar Products, Inc.
Correspondence Address	DANIEL J HOLMANDER ADLER POLLOCK & SHEEHAN 1 CITIZENS PLZ FL 8 PROVIDENCE, RI 02903-1345 UNITED STATES dholmander@apslaw.com, ipdocketing@apslaw.com, cclarkin@apslaw.com
Submission	Motion to Compel Discovery
Filer's Name	Cheryl A. Clarkin, Daniel J. Holmander
Filer's e-mail	cclarkin@apslaw.com,dholmander@apslaw.com
Signature	/cac/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Tristar Products, Inc.	)	
	)	
Opposer,	)	Opposition No. 91219077
	)	
v.	)	Application Serial No.
	)	86/232781
	)	
Telebrands Corp.,	)	
	)	
Applicant.	)	
	)	

**OPPOSER’S MOTION FOR AN ORDER TO COMPEL DISCOVERY**

Pursuant to Rule 37 of the Federal Rules of Civil Procedure, 37 C.F.R. § 2.120(e), and TBMP § 523.01 (2015), Opposer Tristar Products, Inc. hereby moves for an order to compel Applicant Telebrands Corp. to provide more responsive answers to Opposer’s First Set of Interrogatories to Applicant (“Interrogatories”) and to produce documents in response to Opposer’s First Request to Applicant for the Production of Documents and Things (“Request for Production”). The grounds for Opposer’s motion are set forth below.

**PROCEDURAL BACKGROUND**

On April 17, 2015, Opposer served its Interrogatories and Request for Production on Applicant. On May 26, 2015, Applicant served its Responses to Opposer’s Interrogatories and Responses to Opposer’s Request for Production (attached as Exhibits A and B, respectively). In response to nearly all of Opposer’s interrogatories and requests for production, Applicant either: (1) objected to responding to the discovery request; (2) agreed to produce responsive documents but never produced them; or (3) stated that it would produce responsive documents once the parties agreed to and the Board entered a “suitable protective order,” despite the fact that the Board’s standard protective order automatically governs the exchange of discovery.

On August 6, 2015, counsel for Opposer sent counsel for Applicant a letter (attached as Exhibit C) identifying the deficiencies in Applicant's discovery responses, agreeing to enter into a protective order, and inviting Applicant to respond by August 21, 2015. On August 21, 2015, counsel for Applicant emailed counsel for Opposer (attached as Exhibit D) asking Opposer to draft a protective order and refusing to supplement its discovery responses. Because Applicant's discovery responses are woefully deficient and its objections without merit, Opposer now moves to compel.

### **ARGUMENT**

Pursuant to Rule 26(b)(1) of the Federal Rules of Civil Procedure ("Rules"), 37 C.F.R. § 2.120(a), and TBMP § 402.01 (2015), parties may obtain discovery on any non-privileged matter that is relevant to any party's claim or defense. Relevant information need not be admissible at trial, as long as it appears reasonably calculated to lead to the discovery of admissible evidence. 37 C.F.R. § 2.120(a); Fed. R. Civ. P. 26(b)(1); TBMP § 402.01 (2015). Pursuant to Fed. R. Civ. P. 33-34, 37 C.F.R. § 2.120(d), and TBMP §§ 405-406 (2015), a party may serve interrogatories and requests for production on any other party. Pursuant to Fed. R. Civ. P. 37(a), 37 C.F.R. § 2.120(e)(1), and TBMP § 411.02 (2015), a party may move to compel another party to provide more complete responses to its interrogatories or requests for production of documents.

#### **I. APPLICANT'S OBJECTIONS TO OPPOSER'S INTERROGATORIES ARE WITHOUT MERIT.**

Opposer moves to compel Applicant to provide more responsive answers to Interrogatory Nos. 1, 2, 3, 4, 13, 16, 18, and 24 on the grounds that the interrogatories seek relevant information and Applicant's answers to those interrogatories are incomplete and its objections without merit. Interrogatory No. 1 seeks the circumstances under which Applicant chose the COPPER HANDS mark, the identification of other marks considered and rejected by Applicant

and the reasons therefore, and the identity of the person(s) who selected the COPPER HANDS mark. Applicant objected to providing any information other than the name of the individual who chose the mark (Bala Iyer). The circumstances surrounding the decision to choose COPPER HANDS over other marks, however, are relevant to Opposer's claims. For instance, those circumstances may be relevant to whether Applicant was aware of Opposer's mark, whether Applicant intended to deceive customers into thinking that its mark was associated with Opposer's mark, or whether Applicant intended its mark to be descriptive or generic of its products.

Interrogatory No. 2 seeks the results of any trademark search that Applicant performed relating to the marks identified in Interrogatory No. 1, as well as the dates of any trademark searches and the names of any individuals who ordered or performed the searches or received the search results. Applicant objected to responding to Interrogatory No. 2 on attorney-client privilege and work product grounds. Trademark searches, however, are performed on public, government websites, and a public trademark search result printed from a government website is neither an attorney-client communication nor contains an attorney's mental impressions. Moreover, the date of the searches and the names of the individuals involved in the searches are mere facts; those facts are not covered by any privilege. *E.g., State-Wide Capital v. Superior Bank*, No. 98 CIV. 0817 (HB), 2000 WL 20705, at \*1 (S.D.N.Y. Jan. 12, 2000) ("For example, the fact that a conversation occurred is not privileged, the date of a conversation is not privileged, and whether she took notes during a conversation is not privileged."). Accordingly, Applicant cannot refuse to answer Interrogatory No. 2 on attorney-client privilege or work product grounds.

Interrogatory Nos. 3 and 4 ask whether Applicant received any opinions concerning likelihood of confusion and descriptiveness. If so, the interrogatories seek the names of the individuals who rendered the opinions and the contents of the opinions. Applicant objected to providing any answer to these interrogatories on attorney-client privilege and work product grounds. However, whether Applicant received (or did not receive) an opinion on the topics of likelihood of confusion or descriptiveness, and the names of any individuals who wrote those opinions, are mere facts not covered by any privilege.<sup>1</sup>

Interrogatory No. 13 asks Applicant to identify each website that references Applicant's mark. Applicant objected on the ground that the interrogatory seeks information that is not in its possession, custody, or control and Applicant identified a single website, [www.copperhands.com](http://www.copperhands.com), which presumably is Applicant's own website. If Applicant is aware that any other website contains its mark, it cannot object to providing the address of that website merely because it is not the owner of the website. Accordingly, the Board should require Applicant to supplement its answer to Interrogatory No. 13 to either identify the names of any other website that displays its mark, or state that it does not know of any other website that displays its mark.

Applicant agreed to produce documents in response to Interrogatory No. 16. Applicant, however, has not produced these documents, despite having had nearly five months to do so. Accordingly, the Board should compel Applicant to produce these documents within seven days of its decision on this motion to compel.

Interrogatory No. 18 seeks a description of documents and communications that Applicant received regarding its mark. Applicant objected to providing any information on the

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<sup>1</sup> The contents of an opinion received by Applicant potentially could be protected by a privilege. Without more information, however, it is impossible to analyze the merits of Applicant's privilege claim, because Applicant has not disclosed whether it received any opinion, and if so, whether that opinion was provided by an attorney.

ground that the interrogatory was overbroad and unduly burdensome. Applicant, however, has not set forth any facts in support of its claim that it would be unduly burdensome for Applicant to describe some or all of these documents. Given that Applicant has the burden of supporting its objections, and given Applicant's failure to do so with regard to Interrogatory No. 18, the Board should compel Applicant to respond. *E.g., Convertino v. U.S. Dep't of Justice*, 565 F. Supp. 2d 10, 14 (D.D.C. 2008) (noting that the court "only entertains an unduly burdensome objection when the responding party demonstrates how [discovery of] the document is 'overly broad, burdensome, or oppressive, by submitting affidavits or offering evidence which reveals the nature of the burden.'" (citations omitted)).

Interrogatory No. 24 seeks the names of any individuals with knowledge of market research that Applicant conducted relating to its mark, as well as a description of the "extent" of each individual's knowledge. Applicant responded that Mr. Iyer had knowledge of Applicant's market research. Applicant objected to providing further information on the ground that the interrogatory was vague and "incomprehensible," claiming that it did not understand the meaning of the "extent" of each individual's knowledge. Applicant's objection is without merit, as the interrogatory plainly seeks a description of what Mr. Iyer knows about Applicant's market research (*i.e.*, the extent of Mr. Iyer's knowledge as to Applicant's market research).

Accordingly, Applicant should be compelled to supplement its answer to Interrogatory No. 24.

## **II. APPLICANT'S OBJECTIONS TO OPPOSER'S REQUESTS FOR PRODUCTION ARE WITHOUT MERIT.**

Opposer moves to compel Applicant to produce documents in response to Request Nos. 9, 10, 11, 14, 15, and 16 on the ground that the requests seek relevant documents and Applicant's objections are meritless. As an initial matter, Applicant agreed to produce documents in

response to Request No. 9, but to date has not produced any documents. Accordingly, the Board should order Applicant to produce these documents within seven days.

Request No. 10 seeks documents “relating to advertising, marketing materials, mock-ups and the like relating to any promotional material for Applicant’s Goods.” Applicant objected to this Request on the grounds that it is vague and ambiguous with regard to the meaning of “and the like relating to any promotional material for Applicant’s Goods.” That phrase is not ambiguous and clearly is a request for other documents “like” (*i.e.*, similar to) the advertising, marketing materials, and mock-ups that were also requested. Applicant also objected to the request on the ground that the documents are in Opposer’s possession, custody, or control or can be independently obtained by Opposer. This objection is without merit. While Opposer may be able to find some of Applicant’s promotional and advertising materials, it has no way of knowing whether it has all of Applicant’s materials unless Applicant produces them. Moreover, Rule 34(a)(1) and TBMP § 406.02 (2015) require that the recipient of a discovery request produce all documents in its “possession, custody, or control.” The Rules do not allow a party to refuse to produce documents on the ground that the opposing party may be able to obtain those documents through independent means. *See* Fed. R. Civ. P. 34(a)(1); TBMP § 406.02 (2015).

Request No. 11 seeks all documents concerning meetings at which Opposer or Opposer’s marks were discussed. Applicant objected on irrelevancy grounds. On the contrary, documents memorializing or discussing meetings about Opposer’s mark may reveal Applicant’s impressions as to Opposer’s mark, whether Applicant thought that Opposer’s mark might affect Applicant’s trademark application for the COPPER HANDS mark, whether Applicant believes that its mark is similar to Opposer’s mark, et cetera—all of which relate to the central issues in this case. Applicant also objected to Request No. 11 on the ground that Opposer has possession,

custody, or control of these documents. This objection implausibly presumes that Opposer was present at every single meeting at which Applicant ever discussed Opposer's mark and is in possession of every single document that mentions any meeting about Opposer's mark.

Request No. 14 seeks documents relating to the types of customers with whom Applicant does business or intends to do business in connection with the COPPER HANDS mark, as well as Applicant's past, present, and future marketing plans with respect to the mark. Applicant objected to Request No. 14 on the grounds that the requested documents are in Opposer's possession, custody, or control or can be obtained by Opposer. This objection inexplicably and incorrectly assumes that Opposer is in possession of Applicant's past, present, and future marketing plans and knows the names of all of Applicant's actual and prospective customers, and, in any event, is an invalid objection under Rule 34. *See* Fed. R. Civ. P. 34(a)(1); TBMP § 406.02 (2015). Applicant also objected to Request No. 14 on the ground that the documents are irrelevant, despite the fact that the issue of whether Applicant and Opposer share the same actual or potential customers or operate (or intend to operate) in the same industry clearly sheds light on whether Applicant's mark is likely to cause confusion.

Request No. 15 seeks correspondence between Applicant and its actual or prospective advertisers relating to Applicant's goods. In response, Applicant asserted an irrelevancy objection. Request No. 15, however, is relevant because the manner in which Applicant advertises or intends to advertise its products containing the mark, as well as the market in which Applicant advertises or intends to advertise such products, relates to whether Applicant's mark is likely to cause confusion.

Finally, Request No. 16 seeks contracts relating to Applicant's goods. Applicant refused to produce documents on irrelevancy grounds. The contracts, however, which presumably



disclose Applicant's customers, advertisers, and/or the types and price points of Applicant's products, will shed light on whether Applicant advertises and sells to the same customers as Opposer and whether Applicant's mark is likely to cause confusion.

**III. APPLICANT SHOULD EITHER PROPOSE A "SUITABLE" PROTECTIVE ORDER OR PRODUCE THE DOCUMENTS IT IS WITHHOLDING.**

Although Applicant has agreed in theory to produce documents responsive to Interrogatory Nos. 7-12, 14-15, 19, and 22 and Request Nos. 1-8, 12-13, and 17, Applicant has refused to produce such documents until the parties agree to and the Board enters a "suitable protective order." Pursuant to 37 C.F.R. § 2.116, however, the Board's standard protective order automatically applies to discovery unless the parties propose and the Board enters an alternate protective order. 37 C.F.R. § 2.116(g); *see also* TBMP § 412.01 (2015).

Although Applicant refuses to produce documents in the absence of a "suitable protective order," it did not submit a proposed protective order with its discovery responses or otherwise indicate the nature of the protective order it seeks. Nevertheless, Opposer agreed to enter into a protective order in its August 6, 2015 letter to Applicant (Exhibit C). Despite the fact that Applicant is the party that desires a protective order other than the standard protective order that automatically governs this case, Applicant responded to Opposer's letter by asking Opposer to draft a protective order (Exhibit D).

Applicant's failure to take action on its own demand for a protective order is inexplicable. Applicant, as the party seeking an alternate protective order, should either propose a "suitable protective order" or produce its documents pursuant to the Board's standard protective order.<sup>2</sup> Accordingly, Applicant requests that the Board order Applicant to either

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<sup>2</sup> Opposer reserves its right to file a motion to compel further responses to Interrogatory Nos. 7-12, 14-15, 19, and 22 and Request Nos. 1-8, 12-13, and 17 after it receives Applicant's withheld production, in the event that the documents constitute insufficient responses to those discovery requests.

propose a protective order or produce the withheld documents within seven days of the Board's decision on this motion to compel.

**IV. APPLICANT FAILED TO ANSWER OPPOSER'S INTERROGATORIES UNDER OATH.**

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Pursuant to Rule 33 of the Federal Rules of Civil Procedure, the party responding to a set of interrogatories must answer each interrogatory under oath. Fed. R. Civ. P. 33(b)(3) ("Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath."); *see also* TBMP § 405.04(c) (2015). Applicant, however, failed to sign and verify its answers to Opposer's Interrogatories. Accordingly, the Board should order Applicant to provide new answers to interrogatories that are verified under oath.

**CONCLUSION**

For the foregoing reasons, Opposer Tristar Products, Inc. respectfully requests that the Board issue an order to compel Applicant Telebrands Corp. to provide more responsive answers to Opposer's First Set of Interrogatories and to produce documents in response to Opposer's First Request for the Production of Documents and Things.

**Certification Pursuant to Fed. R. Civ. P. 37(a)(1), 37 C.F.R. § 2.120(e)(1), and TBMP § 523.02 (2015)**

Counsel for Opposer certifies that it has made a good faith effort, by conference or correspondence, to resolve with counsel for Applicant the issues presented in the motion, but the parties were unable to resolve their differences.

Opposer,  
TRISTAR PRODUCTS, INC.  
By its attorneys,

Date: September 26, 2015

/Daniel J. Holmander/  
Daniel J. Holmander  
Cheryl A. Clarkin  
Adler Pollock & Sheehan P.C.  
One Citizens Plaza, 8<sup>th</sup> Floor  
Providence, RI 02903  
Tel: (401) 274-7200  
Fax: (401) 751-0604  
Email: [dholmander@apslaw.com](mailto:dholmander@apslaw.com)

### **CERTIFICATE OF SERVICE**

This will hereby certify that a copy of the foregoing OPPOSER'S MOTION FOR AN ORDER TO COMPEL DISCOVERY has been served on counsel for the Applicant: Peter D. Murray, Esq., Cooper & Dunham, 30 Rockefeller Plaza, Floor 20, New York, NY 10112, by FIRST CLASS MAIL, postage pre-paid, on this 26th day of September, 2015.

/Daniel J. Holmander/  
Attorney for Opposer

# EXHIBIT A

Tristar Products, Inc.,  
Opposer,  
v.  
Telebrands Corp.,  
Applicant.

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Applicant Telebrands Corp. (“Telebrands”), hereby responds to Opposer Tristar Products, Inc.’s (“Tristar”) First Set of Interrogatories (“the Interrogatories”), as follows:

1. Telebrands hereby incorporates each and every one of the General Objections set forth in its Responses to Opposer's First Request for the Production of Documents and Things, served concurrently herewith.

2. Telebrands objects to the Interrogatories as exceeding 75 in number, including subparts.

3. Telebrands objects to the definition of “Applicant” in Instruction and Definition “A” as overbroad, vague, and ambiguous, and shall interpret such term as “Telebrands Corp.”

4. Telebrands objects to the remaining portion of Instruction and Definition “A” as unduly burdensome.

5. Telebrands objects to Instruction and Definition “D” as unduly burdensome.

6. Telebrands objects to Instruction and Definition “E” as unduly burdensome.

7. Telebrands objects to the definition of "Opposer's Mark" as vague and ambiguous, for at least the reason that it references "the COPPER WEAR trademark referred to by Opposer in Paragraph[] . . . 8 of the Second Amended Notice of Opposition," which in turn states that "Application Serial No. 85/826741 [is] for the mark COPPER WEAR", when in fact Application Serial No. 85/826741 contains a disclaimer of the term "COPPER WEAR".

8. Telebrands objects to the definition of "Applicant's Goods" as vague and ambiguous, for at least the reason that it is not clear whether the clause beginning with "and are also" is intended to broaden or narrow the term "Applicant's Goods".

9. Telebrands objects to the definition of "Trademark" / "Mark" as vague and ambiguous, for at least the reason that it references apparent defined terms "Opposer's Registered Trademark" and "Opposer's Common-law Trademark" (for which no definitions are provided).

### **TELEBRANDS' SPECIFIC OBJECTIONS AND RESPONSES TO THE INTERROGATORIES**

Subject to the specific objections set forth below, and specifically incorporating each and every one of its General Objections into each specific objection below, and without waiving said objections and responses, Telebrands responds as follows:

#### **INTERROGATORY NO. 1:**

Describe the circumstances under which the Applicant selected Applicant's Mark, identifying all the documents relating thereto. Include in this answer an identification of the person or persons who selected Applicant's Mark and an identification of all other marks that were considered along with Applicant's mark for possible adoption and use by the Applicant. With regard to any other marks identified, state the reason each was not selected.

#### **RESPONSE TO INTERROGATORY NO. 1:**

Applicant objects to this interrogatory on the grounds that it is overly broad, vague and unduly burdensome. Applicant further objects to this interrogatory on the grounds on attorney work product and attorney-client privilege. Applicant further objects to this interrogatory on the grounds that it contains multiple subparts. Subject to the foregoing objections and the General Objections, Applicant responds that Mr. Bala Iyer, Executive Vice President of Telebrands, was involved in the selection of the COPPER HANDS mark.

**INTERROGATORY NO. 2:**

Identify the results and all documents relating thereto, of each trademark search the Applicant performed or had performed for it relating to any of the marks identified in the answer to the preceding Interrogatory. Include in this identification: the date the search was ordered, an identification of the person or persons who ordered the search, the date the search was performed, an identification of the person or persons who performed the search, the date the search results were reported, and an identification of the person or persons who reported the search results and to whom the search was reported.

**RESPONSE TO INTERROGATORY NO. 2:**

Applicant objects to this interrogatory on the grounds that it is overly broad, vague and unduly burdensome. Applicant further objects to this interrogatory on the grounds on attorney work product and attorney-client privilege.

**INTERROGATORY NO. 3:**

State whether Applicant has ever received any opinion relating to whether there is a likelihood of confusion between Applicant's mark and any other mark, and, if so, with respect to each such opinion, identify the person rendering such opinion and each document in which such opinion is expressed, and state a summary of each such opinion.

**RESPONSE TO INTERROGATORY NO. 3:**



Applicant objects to this interrogatory on the grounds on attorney work product and attorney-client privilege.

**INTERROGATORY NO. 4:**

State whether Applicant has ever received any opinion relating to whether Applicant's Mark is merely descriptive of copper-infused compression gloves, and, if so, with respect to each such opinion, identify the person rendering such opinion and each document in which such opinion is expressed, and state a summary of each such opinion.

**RESPONSE TO INTERROGATORY NO. 4:**

Applicant objects to this interrogatory on the grounds on attorney work product and attorney-client privilege.

**INTERROGATORY NO. 5:**

Identify (by name and title) each of Applicant's supervisory employees responsible for the actual or intended promotion, sale, or distribution of Applicant's Goods under Applicant's Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 5:**

Applicant objects to this interrogatory on the grounds that it is vague to the extent that it refers to "supervisory employees." Subject to the foregoing objections and the General Objections, Applicant identifies Mr. Bala Iyer, Executive Vice President.

**INTERROGATORY NO. 6:**

State the date that Applicant selected Applicant's Mark to identify Applicant's goods and services in the United States.

**RESPONSE TO INTERROGATORY NO. 6:**

Subject to the General Objections, Applicant states that it selected the COPPER HANDS mark at least as early as March 26, 2014.

**INTERROGATORY NO. 7:**

Identify all documents relating to and describing the circumstances under which the Applicant first learned of the Opposer or Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 7:**

Subject to the General Objections, Applicant will produce documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained upon entry of a suitable protective order.

**INTERROGATORY NO. 8:**

Identify all documents which describe in detail the current state of Applicant's marketing plans. Intended to be included in this answer are the dates the mark was first used in interstate commerce or commerce outside of the United States in connection with Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 8:**

Subject to the General Objections, Applicant will produce documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained upon entry of a suitable protective order.

**INTERROGATORY NO. 9:**

Identify all goods or products in connection with which Applicant has used or intends to use Applicant's Mark or variations thereof by identifying and describing each different such product and all literature or prospective literature for each (i.e., every style of tag, label, package, sign, poster, point-of-sale display, brochure, advertisement in any medium or any other marketing or promotional item used or intended to be used in connection with each such product).

**RESPONSE TO INTERROGATORY NO. 9:**

Subject to the General Objections, Applicant will produce documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained upon entry of a suitable protective order.

**INTERROGATORY NO. 10:**

Describe in detail the Applicant's prospective and/or current channels of trade for each of its goods on or in connection with which the Applicant's Mark is used or is intended to be used. Intended to be included in this answer are lists of distributors, wholesalers, retail stores or online retail stores of any kind who carry, have carried, or are expected to carry any of Applicant's Goods, and description of the types of customers to whom such goods offered under Applicant's Mark are ultimately intended to be sold, including, but not limited to, whether said customers are wholesale, or retail or both. For each type of customer identified, state the location thereof and the annual dollar volume of sales per product(s) from the time the use of Applicant's mark was initiated to the present. Identify all documents describing, identifying and reporting the types of customers and sales to such customers.

**RESPONSE TO INTERROGATORY NO. 10:**

Applicant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Applicant further objects to this interrogatory on the grounds that it contains multiple subparts. Subject to the foregoing objections and the General Objections, Applicant will produce representative documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained upon entry of a suitable protective order.

**INTERROGATORY NO. 11:**

For each channel of trade identified in response to the preceding Interrogatory, identify all documents describing, identifying and reporting the sales for such channels, specifically identifying documents which state the annual dollar volume of sales handled in each channel for each of its goods from the time the use of Applicant's Mark was initiated to the present and state the annual sales in terms of unit and dollar volume of the product from the date of first sale(s) to date.

**RESPONSE TO INTERROGATORY NO. 11:**

Applicant incorporates its objections to Interrogatory No. 10. Subject to those objections and the General Objections, Applicant will produce summary sales documents, pursuant to Rule 33(d), Fed. R. Civ. P., upon entry of a suitable protective order.

**INTERROGATORY NO. 12:**

Identify all documents describing, identifying and reporting the sales of Applicant's Goods sold under Applicant's Mark on the website [www.copperhands.com](http://www.copperhands.com), specifically identifying documents which state the dollar volume of sales for each of its goods from the time the use of Applicant's Mark was initiated on the website [www.copperhands.com](http://www.copperhands.com) to the present and state the total sales in terms of unit and dollar volume of the product from the date of first sale(s) to date.

**RESPONSE TO INTERROGATORY NO. 12:**

Applicant incorporates its objections and response to Interrogatory No. 11.

**INTERROGATORY NO. 13:**

Identify each website on which reference has been or is being made to Applicant's Mark or Applicant's Goods offered or to be offered under Applicant's mark, including the internet address at which such website is located.

**RESPONSE TO INTERROGATORY NO. 13:**

Applicant objects to this interrogatory on the grounds that it seeks information not within its possession, custody or control. Subject to the foregoing objection and the General Objections, Applicant identifies the website: [www.copperhands.com](http://www.copperhands.com).

**INTERROGATORY NO. 14:**

Describe the manner in which the Applicant advertises or will advertise its goods. Include in this answer: an identification (by name of publication, date, issue number and page number) of any printed advertisement for such goods, an identification of websites which refer to Applicant's Goods, an identification of all of, if any, Applicant's catalogs which refer to Applicant's Goods, the amount spent by Applicant on advertising its goods, and an identification of the person or persons connected with Applicant who is/are or will be most directly in charge of the advertising for Applicant's goods.

**RESPONSE TO INTERROGATORY NO. 14:**

Applicant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Applicant further objects to this interrogatory on the grounds that it contains multiple subparts. Subject to the foregoing objections and the General Objections, Applicant will produce representative documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained upon entry of a suitable protective order.

**INTERROGATORY NO. 15:**

Identify each person or agency that has participated in the creation or distribution of advertisements or promotions for Applicant's goods or services under Applicant's Mark, and the period of time during which each such person or agency has participated.

**RESPONSE TO INTERROGATORY NO. 15:**

Applicant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Applicant further objects to this interrogatory on the grounds that it contains

multiple subparts. Subject to the foregoing objections and the General Objections, Applicant will produce representative documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained upon entry of a suitable protective order.

**INTERROGATORY NO. 16:**

Identify representative examples of each different promotional document or item used or being considered for use by Applicant in connection with the promotion and sale of Applicant's goods and services under Applicant's Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 16:**

Applicant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Applicant further objects to this interrogatory on the grounds that it contains multiple subparts. Subject to the foregoing objections and the General Objections, Applicant will produce representative documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained.

**INTERROGATORY NO. 17:**

Identify each instance of which the Applicant has had knowledge, directly or indirectly, of any actual or purported association or confusion of any type between the Applicant and the Opposer arising, in whole or in part, from contemporaneous use, adoption, or advertisement of their marks. For illustrative purposes only and without limited the foregoing, such instances would include misdirected inquiries, orders, cancellations or returns; misassumptions as to the source of origin; and complaints or comments as to association of confusion or from which association or confusion may be inferred.

**RESPONSE TO INTERROGATORY NO. 17:**

Applicant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Applicant further objects to this interrogatory on the grounds that it is vague.

Subject to the foregoing objections and the General Objections, Applicant states that it is presently unaware of any such confusion.

**INTERROGATORY NO. 18:**

Describe the circumstances of your receipt of any document, correspondence, payment, or telephone call relating to Applicant's Mark, including but not limited to identifying when it was received, the entity from which it was received, and the specific person who received it.

**RESPONSE TO INTERROGATORY NO. 18:**

Applicant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Applicant further incorporates its General Objections.

**INTERROGATORY NO. 19:**

Identify the types of customers with whom Applicant does business or intends to do business under Applicant's Mark, and the types of ultimate consumers to whom Applicant offers or intends to offer for sale Applicant's goods under Applicant's Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 19:**

Applicant objects to this interrogatory on the grounds that it is vague and indefinite to the extent that uses the phrases "types of customers" and "types of ultimate consumers." Subject to the foregoing objections and the General Objections, Applicant will produce representative documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained upon entry of a suitable protective order.

**INTERROGATORY NO. 20:**

Identify each person who assisted in furnishing answers to these Interrogatories or Opposer's First Request to Applicant for the Production of Documents and Things, served

concurrently herewith, specifying, for each person, the numbers of the Interrogatories or Document Requests for which he or she supplied information.

**RESPONSE TO INTERROGATORY NO. 20:**

Applicant objects to this interrogatory based on the work product and attorney-client privilege doctrines. Subject to the foregoing objections and the General Objections, Applicant identifies, Mr. Bala Iyer, Executive Vice President of Telebrands.

**INTERROGATORY NO. 21:**

Identify all potential witnesses, including expert witnesses, for this opposition.

**RESPONSE TO INTERROGATORY NO. 21:**

Applicant objects to this interrogatory on the grounds that it is premature, as Applicant has not yet determine who will be a witness for this opposition. Applicant also incorporates its General Objections.

**INTERROGATORY NO. 22:**

Identify all trade shows in the United States attended by the Applicant in which the Applicant displayed Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 22:**

Applicant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Applicant further objects to this interrogatory on the grounds that it is irrelevant and not likely to lead to the discovery of admissible evidence. Subject to the foregoing objections and the General Objections, Applicant will produce representative documents, pursuant to Rule 33(d), Fed. R. Civ. P., from which the answer for this interrogatory may be obtained upon entry of a suitable protective order.

**INTERROGATORY NO. 23:**



Identify (by name, date and location) all marketing venues (such as trade shows or fairs) where Applicant has promoted or plans to promote its goods or services under Applicant's Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 23:**

Applicant incorporates its objections and response to Interrogatory No. 22.

**INTERROGATORY NO. 24:**

Identify those persons with knowledge of any market research (including surveys, studies, investigations, and focus-group inquiries) conducted by or on behalf of Applicant relating to Applicant's Mark, and for each such person, identify the extent of such knowledge.

**RESPONSE TO INTERROGATORY NO. 24:**

Applicant objects to this interrogatory on the grounds that it is vague and incomprehensible to the extent that it requests identification of the "extent of such knowledge." Subject to the foregoing objections and the General Objections, Applicant identifies Mr. Bala Iyer, Executive Vice President of Telebrands.

**INTERROGATORY NO. 25:**

If you deny any of the Requests for Admission served herewith, state your basis for such denial.

**RESPONSE TO INTERROGATORY NO. 25:**

Applicant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Applicant further objects to this interrogatory on the grounds that it is vague. Subject to the foregoing objections and the General Objections, Applicant states that the basis that it denied certain of the Requests for Admission was that the statements were not true.

Respectfully submitted,

Telebrands Corp.

Dated: May 26, 2015

*/Robert T. Maldonado/*

---

Peter D. Murray  
Robert T. Maldonado  
Cooper & Dunham LLP  
30 Rockefeller Plaza  
New York, New York 10112  
Tel.: (212) 278-0400  
Fax: (212) 391-0525  
E-mail: [Rmaldonado@cooperdunham.com](mailto:Rmaldonado@cooperdunham.com)  
Attorneys for Applicant

**Verification**

On behalf of Telebrands Corp., ("Telebrands") in my capacity as Executive Vice President of Telebrands, I have read the foregoing Applicant Telebrands Corp.'s Responses to Opposer's First Set of Interrogatories and the same are true to my knowledge, information and belief. I do not have direct personal knowledge of every fact contained herein. The response was prepared with the assistance of and advice of counsel. The answers are based on information currently available. I reserve the right to make changes in or additions to any of these answers if it appears at any time that errors or omissions have been made or if more accurate or complete information becomes available.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 26th day of May, 2015.

---

Bala Iyer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **APPLICANT TELEBRANDS CORP.'S RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES** has been served on Opposer's counsel, at the following address of record, by First Class Mail, postage prepaid, this 26<sup>th</sup> day of May 2015.

Cheryl A. Clarkin, Esq.  
Barlow, Josephs & Holmes Ltd.  
101 Dyer Street, 5<sup>th</sup> Floor  
Providence, Rhode Island 02903-3908

/Robert T. Maldonado/

Robert T. Maldonado  
Attorney for Applicant

# EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Tristar Products, Inc.,	)	
	)	Opposition No. 91219077
	)	
Opposer,	)	Application Serial No.
	)	86/232781
v.	)	
	)	
Telebrands Corp.,	)	
	)	
Applicant.	)	
	)	

**APPLICANT TELEBRANDS CORP.'S RESPONSES TO OPPOSER'S FIRST REQUEST  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Applicant Telebrands Corp. ("Telebrands"), hereby responds to Opposer Tristar Products, Inc.'s ("Tristar") First Request to Applicant for the Production of Documents and Things ("Document Requests"), as follows:

**GENERAL OBJECTIONS**

1. Telebrands objects to the Document Requests to the extent they seek the production of documents and things which may constitute one or more of the following:
  - a. Work product or trial preparation materials of an attorney or Telebrands itself;
  - b. Communications between officers, directors, agents, representatives or employees of Telebrands and its attorneys;
  - c. An undue burden, unnecessary expense, harassment, and/or annoyance;
  - d. Matters which are privileged pursuant to the Federal Rules of Civil Procedure or Federal Rules of Evidence or at Common Law;
  - e. Any matters which are irrelevant, immaterial, and/or not reasonably calculated to lead to the discovery of admissible evidence;
  - f. Any matter which are not relevant to the claim or defense of any party;

- g. Any matters that are obtainable from some other source that is more convenient, less burdensome or less expensive; and
- h. Any other matters protected from discovery by any Federal or State statute or Common Law.

2. Telebrands objects to the Document Requests to the extent that they require the production of documents and things beyond the scope of discovery as defined by the Federal Rules of Civil Procedure and/or the TBMP, and/or seek to impose a duty or obligation on Telebrands beyond any duty or obligation contained in the Federal Rules of Civil Procedure and/or the TBMP.

3. The incidental production of any information, document or thing covered by any of Telebrands' General or Specific Objections shall not be construed as a waiver of the objection with respect to any other information, document or thing.

4. Telebrands objects to the Document Requests to the extent that they seek production of documents and things that are not within Telebrands' possession, custody or control. Similarly, Telebrands objects to obtaining or providing information that is not available from a reasonable search of Telebrands' files or a reasonable inquiry of its current employees.

5. Telebrands objects to the Document Requests to the extent that they seek confidential and/or proprietary business and financial information.

6. Telebrands objects to the Document Requests to the extent that they are vague and ambiguous.

7. Telebrands objects to the Document Requests as overbroad and unduly burdensome. Pursuant to Federal Rule of Civil Procedure 26(b)(2)(iii), in responding to the Document Requests, when appropriate and timely, Telebrands will conduct a reasonable investigation under the circumstances, based on the burden and expense of searching for and collecting the documents sought, taking into account the needs of the case, the amount in controversy, the parties' (and particularly Telebrands') resources, the importance of the issues at stake, and the importance of the requested information in resolving the issues in this opposition.

8. Telebrands objects to the Document Requests as unreasonably burdensome to the extent they request information that can be independently obtained by Opposer from other sources, such as materials available from the U.S. Patent and Trademark Office or available on the Internet.

9. Telebrands objects to any request to the extent it employs imprecise specifications of the documents or things sought.

10. Telebrands objects to the Document Requests as unlimited in time.

11. Telebrands' response to the Document Requests is not intended to waive, and does not constitute waiver of, any and all objections which Telebrands may have to the admissibility, authenticity, or relevance of the documents and things produced, or objections that Telebrands may raise in a motion *in limine*. Telebrands expressly reserves all such objections.

12. Neither the General Objections, nor the Specific Objections set forth below, are an admission relative to the existence of any documents or things sought, to the relevance or admissibility of any response, or to the truth or accuracy of any statement or characterization contained in any particular request.

13. Telebrands objects to the Document Requests to the extent they call for information protected by a confidentiality obligation to a third party.

14. Telebrands' investigation of this matter is ongoing. Discovery is in its early stages and Telebrands has not had an opportunity to take any depositions in this opposition. Telebrands' objections are based upon information presently available to Telebrands. Telebrands reserves the right to amend or supplement its responses as additional information becomes known or available to it.

15. Telebrands objects to the request that "production should be labeled according to the specific request to which it pertains" as unduly burdensome and as exceeding the scope of Telebrands' obligations under the Federal Rules of Civil Procedure. Telebrands will produce any documents in the form in which they are maintained or in a reasonably usable form.

16. Telebrands incorporates by reference the objections in its responses to Opposer's



First Set of Interrogatories to Applicant.

**TELEBRANDS' SPECIFIC OBJECTIONS AND RESPONSES TO THE  
DOCUMENT REQUESTS**

Subject to the specific objections set forth below, and specifically incorporating each and every one of its General Objections into each specific objection below, and without waiving said objections and responses, Telebrands responds as follows:

**REQUEST FOR PRODUCTION NO. 1:**

All documents and things identified or requested to be identified in OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT, served herewith.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Telebrands objects to this request to the extent it seeks documents<sup>1</sup> protected from discovery under the attorney/client privilege, the attorney work product doctrine, or any other applicable privilege or immunity. Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Subject to the foregoing general and specific objections and the objections made in response to Opposer's First Set of Interrogatories, Telebrands will produce relevant, non-privileged non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 2:**

All documents that were used to answer any interrogatory in OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT, served herewith.

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<sup>1</sup> Telebrands' references to "documents" in its responses should be understood to refer both to "documents" and to "things".

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Telebrands objects to this request to the extent it seeks documents protected from discovery under the attorney/client privilege, the attorney work product doctrine, or any other applicable privilege or immunity. Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Subject to the foregoing general and specific objections and the objections made in response to Opposer's First Set of Interrogatories, Telebrands will produce relevant, non-privileged non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 3:**

All non-privileged documents and things in your possession, custody, or control relating to any trademark, services mark, or Internet domain name investigation or search conducted by Applicant or on behalf of Applicant relating to Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce relevant, non-privileged, non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 4:**

All non-privileged documents and things in your possession, custody, or control relating to the creation, selection, adoption and use of Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce relevant, non-privileged, non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 5:**

All non-privileged documents and things in your possession, custody, or control relating to Applicant's decision to apply for a federal registration for Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce relevant, non-privileged, non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 6:**

All non-privileged documents and things in your possession, custody, or control relating to Applicant's first use in commerce of Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce relevant, non-privileged, non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 7:**

Produce specimens of each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, website, or invoice in your possession, custody, or control that Applicant' (or another party with Applicant's consent) has used or intends to use depicting or bearing any form of Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce exemplary relevant, non-privileged, non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 8:**

Produce all non-privileged documents and things in your possession, custody or control relating to the labels, packaging, tags, brochures, advertisements, promotional items, information literature, websites, or invoices produced in response to Request No. 7, including but not limited to prototypes, drafts, and sketches for same.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce documents sufficient to identify the goods, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 9:**

All non-privileged documents and things in your possession, custody, or control relating to Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce documents sufficient to identify the goods.

**REQUEST FOR PRODUCTION NO. 10:**

All non-privileged documents and things in your possession, custody, or control relating to advertising, marketing materials, mock-ups and the like relating to any promotional material for Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in

Opposer's possession, custody or control or that can be independently obtained by Opposer. Telebrands objects to this request on the grounds that it is vague and ambiguous at least with respect to "and the like" and "relating to [various materials] . . . relating to any promotional material . . .".

**REQUEST FOR PRODUCTION NO. 11:**

All non-privileged documents and things in your possession, custody, or control relating to any meetings at which Opposer or Opposer's Marks were discussed.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer.

**REQUEST FOR PRODUCTION NO. 12:**

All documents which include past, current and potential distribution channels and locations for Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer. Telebrands objects to this request as vague and ambiguous at least with respect to how a document can "include . . . distribution channels and locations".

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce exemplary relevant, non-privileged, non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 13:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Applicant's past, present, and future marketing plans that related to Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce relevant, non-privileged, non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

**REQUEST FOR PRODUCTION NO. 14:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the types of customers with whom Applicant's does business or intends to do business in connection with Applicant's Mark, and past, present, and future marketing plans that related to Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer.

Telebrands objects to this request as vague and ambiguous. Telebrands objects to this request as duplicative of Request for Production No. 13.

**REQUEST FOR PRODUCTION NO. 15:**

All non-privileged documents and things in your possession, custody, or control relating to correspondence with Applicant's advertisers and potential advertisers regarding Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request as vague and ambiguous at least with respect to "potential advertisers".

**REQUEST FOR PRODUCTION NO. 16:**

All non-privileged documents and things in your possession, custody, or control relating to contracts of agreements relating to Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects of this as vague and ambiguous at least with respect to "contracts of agreements" and interprets this term as referring to written contracts.

**REQUEST FOR PRODUCTION NO. 17:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the date and circumstances under which Applicant first became aware of the Opposer's Mark.



**RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

Telebrands objects to this request as overly broad and unduly burdensome. Telebrands objects to this request as seeking the production of documents which are irrelevant to the claims or defenses of the parties. Telebrands objects to this request to the extent it seeks documents in Opposer's possession, custody or control or that can be independently obtained by Opposer.

Subject to and without waiving the foregoing general and specific objections, Telebrands will produce relevant, non-privileged, non-immune documents responsive to this request, to the extent that such documents exist, after entry of a suitable protective order.

Respectfully submitted,

Telebrands Corp.

Dated: May 26, 2015

*/Robert T. Maldonado/*

---

Peter D. Murray  
Robert T. Maldonado  
Cooper & Dunham LLP  
30 Rockefeller Plaza  
New York, New York 10112  
Tel.: (212) 278-0400  
Fax: (212) 391-0525  
E-mail: [Rmaldonado@cooperdunham.com](mailto:Rmaldonado@cooperdunham.com)  
Attorneys for Applicant

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **APPLICANT TELEBRANDS CORP.'S RESPONSES TO OPPOSER'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS AND THINGS** has been served on Opposer's counsel, at the following address of record, by First Class Mail, postage prepaid, this 26<sup>th</sup> day of May 2015.

Cheryl A. Clarkin, Esq.  
Barlow, Josephs & Holmes Ltd.  
101 Dyer Street, 5<sup>th</sup> Floor  
Providence, Rhode Island 02903-3908

/Robert T. Maldonado/

Robert T. Maldonado  
Attorney for Applicant

# EXHIBIT C

ADLER POLLOCK & SHEEHAN P.C.

One Citizens Plaza, 8th floor  
Providence, RI 02903-1345  
Telephone 401-274-7200  
Fax 401-751-0604 / 351-4607

175 Federal Street  
Boston, MA 02110-2210  
Telephone 617-482-0600  
Fax 617-482-0604

[www.apslaw.com](http://www.apslaw.com)

August 6, 2015

Peter D. Murray, Esq.  
Cooper & Dunham  
30 Rockefeller Plaza  
Floor 20  
New York, NY 10112

Re: Tristar Products, Inc. v. Telebrands Corp.  
Opposition No. 91219077

Dear Mr. Murray:

This letter is to acknowledge receipt of Telebrands' responses to Tristar's First Set of Interrogatories and First Request for the Production of Documents and Things, which we received on May 29, 2015.

In your responses, you objected to our requests on the grounds that our requests were overly broad, vague and unduly burdensome; that they seek information protected by attorney work product and attorney-client privilege; that they seek information not within its possession, custody or control; that they seek information that is irrelevant and not likely to lead to the discovery of admissible evidence; that they are vague and incomprehensible; and that they seek documents in Opposer's possession, custody or control or that can be independently obtained by Opposer. In fact, the only substantive answer we received was that an individual by the name of Mr. Bala Iyer was involved in the selection of the COPPER HANDS mark; that he is responsible for the actual or intended promotion, sale or distributions of Telebrands' goods under the COPPER HANDS mark; that Telebrands selected the COPPER HANDS mark at least as early as March 26, 2014; and you identify the website [www.copperhands.com](http://www.copperhands.com).

Under 37 CFR § 2.120, a Motion for an order to compel discovery can be filed if a party believes that discovery request responses are inadequate. We find your responses to be inadequate.

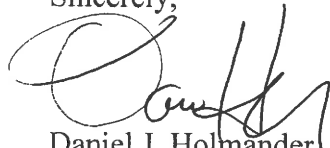
In order to accommodate your objection that certain information is confidential, we are agreeable to entering into a Stipulated Protective Order.

Please confirm that you will agree to enter into a Protective Order, produce documents and supplement answers to our requests. If we do not hear from you by August 21, 2015, we will file a Motion to Compel with the Trademark Trial and Appeal Board.

ADLER POLLOCK & SHEEHAN P.C.

Finally, we enclose an executed Verification to Opposer's Responses to Applicant's First Set of Interrogatories that was inadvertently not attached. We note that we have yet to receive an executed Verification to accompany Applicant's Responses to Opposer's First Set of Interrogatories.

Sincerely,



Daniel J. Holmänder, Esq.  
[dholmänder@apslaw.com](mailto:dholmänder@apslaw.com)

DJH/klw

# EXHIBIT D

message in error, or are not the named recipient(s), please immediately notify the sender and delete this e-mail message from your computer.

Thank You.

---

**From:** Robert Maldonado [<mailto:RMALDONADO@COOPERDUNHAM.COM>]  
**Sent:** Friday, August 21, 2015 9:59 AM  
**To:** Daniel Holmander  
**Cc:** Peter D Murray; Elana Araj  
**Subject:** RE: TTAB Proceeding No. 91219077 - Tristar v. Telebrands re: COPPER HANDS

Dan,

In response to your letter dated August 6, 2015, Telebrands disagrees that its discovery responses were inadequate. Telebrands is agreeable to the entry of a Stipulated Protective Order. Please send us a draft at your earliest convenience. Thank you.

Regards,

Robert T. Maldonado  
Cooper & Dunham LLP  
30 Rockefeller Plaza  
New York, New York 10112  
Tel. (212) 278-0509  
Fax (212) 391-0525  
E-mail: [RMaldonado@cooperdunham.com](mailto:RMaldonado@cooperdunham.com)

---

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---

**From:** Daniel Holmander [<mailto:DJH@barjos.com>]  
**Sent:** Tuesday, April 14, 2015 11:48 AM  
**To:** Robert Maldonado <[RMALDONADO@COOPERDUNHAM.COM](mailto:RMALDONADO@COOPERDUNHAM.COM)>  
**Subject:** TTAB Proceeding No. 91219077 - Tristar v. Telebrands re: COPPER HANDS

It appears that we have a discovery conference due tomorrow.

When would you like to have the call?

Dan

Daniel J. Holmander | Partner  
Barlow, Josephs & Holmes Ltd.  
Owen Building  
101 Dyer St Ste 501

Providence, Rhode Island, USA 02903-3908  
w. 401.273.4446 x103  
c. 401.617.9778  
f. 401.273.4447  
00 + 1 + 401 + 273-4446 (international)  
[djh@barjos.com](mailto:djh@barjos.com)  
<http://www.linkedin.com/in/danielholmader>

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